

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re The Application of:
Thomas Edsall

Serial No.: 10/840,212
Patent No. 7,200,145

Filed: May 5, 2004

For: PRIVATE VLANS

Examiner: Toan D. Nguyen

Art Unit: 2665

Confirmation No.: 7613

Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210
November 5, 2010

BY EFS

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO ACCEPT PRIORITY CLAIM UNDER 37 C.F.R. §1.78(a)(3)
AND ISSUE A CERTIFICATE OF CORRECTION UNDER MPEP
1481.03(II)(B)(c)

The Director is hereby petitioned under 37 C.F.R. §1.78(a)(3) to accept an unintentionally delayed claim of priority under 35 U.S.C. §120 in U.S. Patent No. 7,200,145, and issue the Certificate of Correction filed herewith, pursuant to MPEP 1481.03(II)(B)(c), to supply an explicit reference to U.S. Patent No. 6,741,592 in the first sentence(s) of the specification as required by 37 C.F.R. §1.78(a)(2)(iii) and 35 U.S.C. §120, where such reference was only supplied elsewhere in the application.

Relevant Rules

Among other relevant statutes and rules, Patent Owner notes that 37 C.F.R. §1.78(a)(3)(iii) states (emphasis added):

If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title.

Statement of Facts

Patent Owner respectfully presents the following relevant facts to the Director.
For ease of discussion here, Patent Owner's patent applications are referenced as follows:

"PARENT" = Application Ser. No. 09/575,774, now U.S. Patent No. 6,741,592;
and

"CHILD" = Application Ser. No. 10/840,212, now U.S. Patent No. 7,200,145 (the patent which is the subject of this petition);

1. CHILD is filed on May 5, 2004 while PARENT is copending. The Utility Patent Application Transmittal expressly indicated that CHILD was a continuation of PARENT. *See* Exhibit A. Further, CHILD was filed with a copy of the Declaration of PARENT under 37 C.F.R. §1.63(d)..
2. The USPTO issued a Filing Receipt indicating under the heading "Domestic Priority data as claimed by applicant" that "This application is a CON of 09/575,774 05/22/2000 PAT 6,741,592." *See* Exhibit B.
3. The CHILD issued without reference to PARENT on its face (i.e. at item 63).
4. A Request for Certificate of Correction was filed requesting a correction to indicate that CHILD is a continuation of PARENT be listed on the face of CHILD (i.e. at item 63). *See* Exhibit C.
5. A Certificate of Correction was issued correcting the face of CHILD (i.e. at item 63) to indicate that CHILD is a continuation of PARENT. *See* Exhibit D.

6. During a portfolio review, it was recently noticed that PARENT was not referenced in the first paragraph of the specification as required by 37 C.F.R. §1.78(a)(3)(iii). The oversight was investigated, and this Petition was prepared and filed.

Remarks

Patent Owner respectfully urges that granting this petition is proper. The Certificate of Correction filed herewith corrects an unintentional oversight made by Patent Owner in not including an explicit reference to PARENT in the first sentence(s) of the specification as required by C.F.R. §1.78(a)(2)(iii). However, the priority claim to PARENT was made in other application papers, and was recognized by the Office, despite its absence from the first sentence(s) of the specification. As such, entry of the Certificate of Correction filed herewith should not be considered new matter nor otherwise require reexamination or reissue.

As set forth above in the Statement of Facts, the Utility Patent Application Transmittal filed with CHILD explicitly indicated that CHILD is a continuation of PARENT. *See* Exhibit A. The Office recognized this priority claim and indicated on the Filing Receipt of June 12, 2004 that CHILD is a continuation of PARENT. *See* Exhibit B. Further, the Director has already granted a previous Certificate of Correction to correct the face of CHILD to indicate, at item 63, that CHILD is a continuation of PARENT. *See* Exhibit D.

The Certificate of Correction filed herewith merely seeks to have the first sentence of the specification of CHILD corrected to reflect the priority claim already indicated on the Utility Patent Application Transmittal filed with CHILD, on the Filing Receipt of June 12, 2004 issued for CHILD, and on the face of CHILD, at item 63. Patent Owner respectfully urges that the omission of an explicit reference to PARENT in the first sentence(s) of the specification of CHILD as required by C.F.R. §1.78(a)(2)(iii) was due to an inadvertent oversight and absent any bad faith intent. Further, the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. A statement by an attorney of record in CHILD and PARENT indicating that the entire delay between the date the claim was due under 37

C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional is attached herewith as Exhibit E.

This petition meets the three conditions required by 37 C.F.R. §1.78(a)(3) and MPEP 1481.03(II)(B)(c) and therefore should be granted. Specifically,

(I) the reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2) to the prior-filed application has been submitted, i.e., herewith in the accompanying Certificate of Correction,

(II) the surcharge set forth in 37 C.F.R. §1.17(t) has been paid herewith, and

(III) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional has been filed herewith.

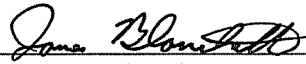
Patent Owner respectfully urges that the three (3) required conditions are satisfied and, therefore, a Certificate of Correction may be properly granted to correct the patent to supply an explicit reference to U.S. Patent No. 6,741,592 in the first sentence(s) of the specification as required by as required by 37 C.F.R. §1.78(a)(2)(iii).

Relief Requested

For the reasons above, therefore, it is requested that the Director grant this Petition to accept the unintentionally delayed claim of priority under 35 U.S.C. §120 and to issue the Certificate of Correction filed herewith to supply the explicit reference in the first paragraph of the specification required by as required by 37 C.F.R. §1.78(a)(2)(iii) and 35 U.S.C. §120.

Please charge: (a) the Petition Fee under 37 C.F.R. 1.17 in the amount of \$1,410.00; and (b) any additional fees occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,



James A. Blanchette
Reg. No. 51,477
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210
Telephone: (617) 951-2500
Facsimile: (617) 951-3927

EXHIBIT A

Please type a plus sign (+) inside this box → +

PTO/SB/05 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No. 112025-0199C1

First Inventor Thomas Edsall et al.

Title PRIVATE VLANS

Express Mail Label No. EV 335 588 497 US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 38]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the invention
 - Brief Summary of the invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 8]
5. ☐ Oath or Declaration [Total Pages 4]
 - a. ☐ Newly executed (original or copy)
 - b. ☒ Copy from a prior application (37 CFR 1.63 (d))
(for a continuation/divisional with Box 18 completed)
 - i. ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

ADDRESS TO:

Mail Stop Patent Application
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
 - a. ☐ Computer Readable Form (CRF)
 - b. Specification Sequence Listing on:
 - i. ☐ CD-ROM or CD-R (2 copies); or
 - ii. ☐ paper
 - c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATIONS PARTS

9. ☒ Assignment Papers (cover sheet & document(s))
10. ☐ 37 C.F.R. §3.73(b) Statement (when there is an assignee) ☒ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☒ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☐ Other:

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP)

of prior application No: 09 / 575,774

Prior application information: Examiner Nguyen, Toan D.

Group / Art Unit: 2665

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

17. CORRESPONDENCE ADDRESS

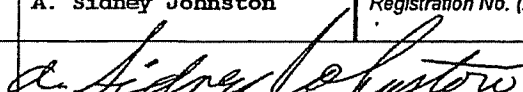
☒ Customer Number or Bar Code Label

24267

PATENT TRADEMARK OFFICE

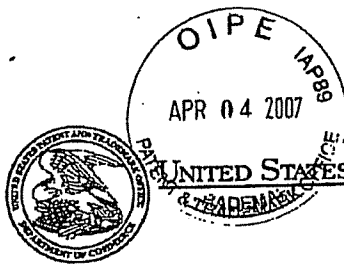
or ☐ Correspondence address below

Name	A. Sidney Johnston					
Address	Cesari and McKenna 88 Black Falcon Avenue					
City	Boston	State	MA	Zip Code	02210	
Country	U. S. A.	Telephone	(617) 951-2500	Fax	(617) 951-3927	

Name (Print/Type)	A. Sidney Johnston	Registration No. (Attorney/Agent)	29,548
Signature		Date	May 5, 2004

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

EXHIBIT B



112025-0199 C1

ASJ/MT/AME

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/840,212	05/05/2004	2661	3464	112025-0199C1	8	46	23

24267
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

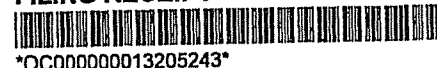
RECEIVED

JUL 14 2004

CESARI & MCKENNA

CONFIRMATION NO. 7613

FILING RECEIPT



OC000000013205243

Date Mailed: 07/12/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Thomas J. Edsall, Cupertino, CA;
Marco Foschiano, San Jose, CA;
Michael Fine, San Francisco, CA;
Thomas Nosella, Sunnyvale, CA;Domestic ☒ Priority data as claimed by applicant

This application is a CON of 09/575,774 05/22/2000 PAT 6,741,592

Foreign Applications

If Required, Foreign Filing License Granted: 07/10/2004

Projected Publication Date: Request for Non-Publication Acknowledged

☒ Non-Publication Request: Yes

(4.5.05)

Early Publication Request: No

Title

Private vlans

R 09 2007

Preliminary Class

370

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

EXHIBIT C



04-05-07 10/840212 C of C

PATENTS
112025-0199C1
Seq. #9321 CPOL #450195

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent No.: 7,200,145)

Of: Thomas Edsall et al.)

Issued: 04-03-2007)

For: PRIVATE VLANS)

Examiner: Nguyen, Toan D.

Art Unit: 2665

Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210
April 4, 2007

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Certificate
APR 09 2007
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §1.322

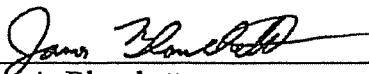
Please correct the absence of a "Related U.S. Application Data" field on the face of the patent indicating the patent is a "Continuation of Application No. 09/575,774, filed on May 22, 2000, now Pat. No. 6,741,592." The requested correction is also indicated Certificate of Correction form filed hereewith.

The omission is believed to be due to Office error, as the priority claim was correctly noted on the Filing Receipt, a copy of which is attached as Exhibit A. Therefore no fee is believed to be required. Should, however, the Office believe an additional fee is required to correct this error, please charge any such fee to our Deposit Account No. 03-1237.

APR 09 2007

PATENTS
112025-0199C1
Seq. #9321 CPOL #450195

Respectfully submitted,


James A. Blanchette
Reg. No. 51,477
CESARI AND MCKENNA, LLP
88 Black Falcon Avenue
Boston, MA 02210-2414
(617) 951-2500

APR 09 2007

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO : 7,200,145
DATED : 04-03-2007
INVENTOR(S) : Thomas Edsall et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Item [63], Related U.S. Application Data: should be added and read
- Continuation of Application No. 09/575,774, filed on May 22, 2000,
now Pat. No. 6,741,592. -

MAILING ADDRESS OF SENDER:

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88 Black Falcon Avenue
Boston, MA 02210

PATENT NO. 7,200,145

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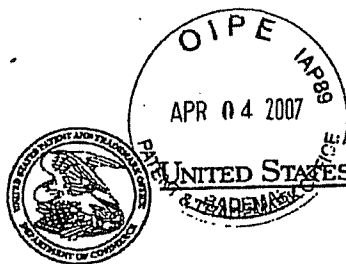


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12R 09 2007

EXHIBIT A

FEB 09 2007



112025-0199 C1

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/840,212	05/05/2004	2661	3464	112025-0199C1	8	46	23

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JUL 14 2004

CESARI & MCKENNA

CONFIRMATION NO. 7613

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OC000000013205243

Date Mailed: 07/12/2004

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Applicant(s)

Thomas J. Edsall, Cupertino, CA;
Marco Foschiano, San Jose, CA;
Michael Fine, San Francisco, CA;
Thomas Nosella, Sunnyvale, CA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/575,774 05/22/2000 PAT 6,741,592

Foreign Applications

If Required, Foreign Filing License Granted: 07/10/2004

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

(4.5.05)

Early Publication Request: No

Title

Private vlans

R 09 2007

Preliminary Class

370

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



PATENTS
112025-0199C1
Seq. #9321 CPOL #450195

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In Re The Application of:
Thomas Edsall et al.**

Serial No.: 10/840,212

Filed: May 5, 2004

For: PRIVATE VLANS

Examiner: Nguyen, Toan D.

Art Unit: 2665

Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210
April 4, 2007

EXPRESS-MAIL DEPOSIT

"Express Mail" Mailing-Label Number: EV 916600982 US

The following papers are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 C.F.R. §1.10:

X Request for Certificate of Correction
X Exhibit A - Filing Receipt

X Certificate of Correction
X Return Receipt Postcard.

EXHIBIT D

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,200,145 B1
APPLICATION NO. : 10/840212
DATED : April 3, 2007
INVENTOR(S) : Thomas Edsall et al.

Page 1 of 1

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page,
Item [63], Related U.S. Application Data: should be added and read -- Continuation of
Application No. 09/575,774, filed on May 22, 2000, now Pat. No. 6,741,592. --

Signed and Sealed this

Eighteenth Day of March, 2008

A handwritten signature in black ink, appearing to read "Jon W. Dudas". The signature is stylized with a large, looped initial "J" and a cursive "Dudas".

JON W. DUDAS
Director of the United States Patent and Trademark Office

EXHIBIT E

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re The Application of:
Thomas Edsall

Serial No.: 10/840,212
Patent No. 7,200,145

Filed: May 5, 2004

For: PRIVATE VLANS

Examiner: Toan D. Nguyen

Art Unit: 2665

Confirmation No.: 7613

Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210
November 5, 2010

BY EFS

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

STATEMENT OF UNINTENTIONAL DELAY

Patent Owner's undersigned Attorney, a registered patent attorney of record, hereby states that the entire delay in explicitly setting forth the priority claim required by 35 U.S.C. 120 in the first sentence(s) of the specification of Application Serial No. 10/840,212, now issued as U.S. Patent No. 7,200,145, as required by 37 C.F.R. §1.78(a)(2)(iii), from its filing date of May 5, 2004 until the filing of the Petition filed on even date herewith, was unintentional.

Please charge any additional fee occasioned by this paper to our Deposit Account
No. 03-1237.

Respectfully submitted,

A handwritten signature in cursive script, reading "A. Sidney Johnston". The signature is written in dark ink and is positioned above the printed name and address.

A. Sidney Johnston
Reg. No. 29,548
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210
Telephone: (617) 951-2500
Facsimile: (617) 951-3927